

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ELAINE BENJAMIN,

Plaintiff,

v.

ORDER
11-CV-0571A

THE FOSDICK MACHINE TOOL COMPANY,
THE FOSDICK MACHINE TOOL COMPANY
n/k/a MAKINO, INC. formerly known as
LEBLOND INCORPORATED, AND
TUTHILL CORPORATION, doing business
under the name of TUTHILL ENERGY SYSTEMS,

Defendants.

The above-referenced case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(B). On September 27, 2012, Magistrate Judge Foschio filed a Report and Recommendation, recommending that defendants' motion for summary judgment be denied as premature.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendants' motion for summary judgment is denied as premature.

The case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: October 16, 2012